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Subject: DPR - OEHA and EPA - May 18 - 2018
Date: Thursday, May 24, 2018 3:59:40 PM

Rachel – here's my notes from One Note from the teleconference with California. I see from your email interactions with Mike that you are working up a meeting summary and 'next steps' list.

DPR - OEHA and EPA - May 18 - 2018

Friday, May 18, 2018
12:35 PM

Mike - kicked off discussion - explanation - that we want to look at this topic - newly - glyphosate - is a situation that initiated the understanding of a dis-connect - can we explore other options besides EPA's labels - cited the glyphosate example as creating a false - or misleading statement per FIFRA

Carol: Prop 65 has warning regulations - adopted thru ballot initiative - lists carcinogens and reproductive toxins - and impact is that warnings are given to consumers- OEHA has guidance - not mandatory - people have number of options - on product labeling - signs at a store - warning over the internet - what's mandatory is that industry provide fair and reasonable way of informing the public - since malathion and glyphosate were listed - there have been inquiries from groups about using labels - OEHA has worked up a proposed regulation to reconcile potential conflict of between FIFRA signal words and the proposition 65 reliance on similar words - like 'warning' - in litigation in state and federal court concerning glyphosate -- in federal case - there's an injunction about imposing - effectively - no one can enforce the warning for glyphosate - - the court 'upheld' the listing - found not to be a violation of first amendment --

Preemption discussion - question: what difference would OEHA's proposal

Malathion: is it a carcinogen per EPA?

Q: What if there is 'no conflict' between OEHA and EPA? A: (Mike: doesn't really want to take this on as a chemical by chemical issue. OEHA: that's good - most of the pesticide listings conform to what EPA thinks. Businesses under prop 65 make the determination - so it's the registrant that would invoke it (DPR) - we have work load issues too - similar to EPA. OEHA: should there be a conversation with WalMart and Home Depot - EPA: who are the retailers who will not permit point of sale? A: all big box stores - Target - WalMart - Amazon - etc. their position is saying we won't put signage in our stores - - EPA: Q: how does prop 65 apply to internet sales? (OEHA) A: new regulations effective August 2018 - requires a warning prior to purchase - such as a link or pop up statement - before the purchaser finishes the purchase - OEHA: Q: what does EPA think of its rule-making designed to reconcile the potential signal word conflict? A: (Mike) on preliminary basis seems ok - but we'd want to look further into it. EPA: (Mike) Walmart is talking to us about their disclosure policy - they've shown flexibility about the implementation - but so far haven't balked at policy goal - (DPR): California passed law that for antimicrobials - all ingredients must be transparent - either on label or web site - the argument is that WalMart is requiring this in process - so no new real burden - (Mike) - 'transparency is the new green...' big challenge for agencies -- (OEHA) - wants to talk to the chamber of commerce - to air this out - (OEHA) is there possibility for a general approval or a box especially for California (OEHA) the language

changes take full effect this summer - so this is probably the busiest time for this --

Q: where do we go from here? (Mike) - A: OEHA - 1. we'll send you some materials - 2 we'll talk to the chamber of commerce - 3 we'll talk to retailers. - Carol: let us know by mid-June if regulation is generally - ok - no formal comment needed though - (Mike) let's talk again in June -

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